

## Message Text

SECRET

PAGE 01 STATE 026995 TOSEC 020039

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ORIGIN NEA-10

INFO OCT-01 ISO-00 SS-15 L-03 H-02 PM-04 SSO-00 CCO-00

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DRAFTED BY NEA:SSOBER:TH

APPROVED BY NEA:ALATHERTON, JR.

H - S. GOLDBERG

PM - T. STERN

L - J. MICHEL

S/S - AOTTO

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FM SECSTATE WASHDC

TO USDEL SECRETARY IMMEDIATE

S E C R E T STATE 026995 TOSEC 020039

FROM ATHERTOOR SECRETARY

E.O. 11652: GDS

TAGS: MASS, US, XF, SA

SUBJECT: ACTION MEMORANDUM: PROPOSED LETTER TO CHAIRMAN  
MORGAN ON SECURITY ASSISTANCE LEGISLATION (S/S NO.7602306)

1. ON JANUARY 29, YOU SIGNED A LETTER TO CHAIRMAN  
SPARKMAN ON THE SEVERAL ISSUES IN THE PENDING SECURITY  
ASSISTANCE LEGISLATION ON WHICH WE CONTINUE TO HAVE STRONG  
RESERVATIONS. YOU SINGLED OUT THE PROVISIONS DEALING  
WITH DISCRIMINATION, DISCLOSURE OF AGENTS' FEES, AND  
LEGISLATIVE VETO BY CONCURRENT RESOLUTION AS BEING OF  
CONCERN. THE SFRC SUBSEQUENTLY VOTED OUT THE LEGISLATION  
WITHOUT MAKING ANY CHANGES ON THESE PARTICULAR POINTS.

2. THE HIRC IS NOW MARKING UP THE SECURITY ASSISTANCE  
LEGISLATION. VARIOUS DEPARTMENT REPS HAVE SPOKEN TO  
MEMBERS OF THE COMMITTEE TO ENLIST THEIR SUPPORT ON  
SECRET

SECRET

PAGE 02 STATE 026995 TOSEC 020039

ITEMS OF CONCERN TO US. I BELIEVE IT WOULD BE USEFUL

AND TIMELY IF YOU WOULD SEND A LETTER TO CHAIRMAN MORGAN  
SUMMARIZING OUR MOST IMPORTANT CONCERNS.

3. RECOMMENDATION: THAT YOU AUTHORIZE US TO SEND THE  
FOLLOWING LETTER TO CHAIRMAN MORGAN ON YOUR BEHALF:

BEGIN TEXT:

HONORABLE THOMAS E. MORGAN, CHAIRMAN  
HOUSE INTERNATIONAL RELATIONS COMMITTEE  
HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C.

DEAR MR. CHAIRMAN:

AS THE HOUSE INTERNATIONAL RELATIONS COMMITTEE CONTINUES  
ITS CONSIDERATION OF THE DRAFT "INTERNATIONAL SECURITY  
ASSISTANCE ACT OF 1975," I WISH TO REITERATE OUR SERIOUS  
CONCERNS REGARDING CERTAIN PROVISIONS OF THE BILL WHICH  
HAVE BEEN TENTATIVELY APPROVED BY THE COMMITTEE AS WELL  
AS CERTAIN PENDING AMENDMENTS.

WITH REGARD TO TENTATIVELY APPROVED PROVISIONS, WE ARE  
MOST DEEPLY CONCERNED WITH THOSE SECTIONS WHICH CON-  
TEMPLATE LEGISLATIVE VETO OF EXECUTIVE BRANCH ACTIONS  
THROUGH CONCURRENT RESOLUTIONS AND THE SECTION ESTABLISH-  
ING AN ANNUAL CEILING ON GOVERNMENTAL AND COMMERCIAL  
SALES OF DEFENSE ARTICLES AND DEFENSE SERVICES.

LEGISLATIVE VETOES BY CONCURRENT RESOLUTION RAISE  
FUNDAMENTAL QUESTIONS AS TO THE CONSTITUTIONAL ROLES  
OF THE LEGISLATIVE AND EXECUTIVE BRANCHES. SPORADIC  
PARTICIPATION BY THE LEGISLATIVE BRANCH IN THE CARRYING  
OUT OF THE VERY LAWS IT HAS ENACTED, THROUGH NEGATIVE  
ACTION ON INDIVIDUAL TRANSACTIONS, IS IN OUR VIEW A  
MOST UNSATISFACTORY WAY FOR CONGRESS TO FULFILL ITS  
RESPONSIBILITIES IN THE FORMULATION OF FOREIGN POLICY.  
WE DO NOT DENY THE IMPORTANCE OF CONGRESSIONAL  
PARTICIPATION IN POLICY MAKING OR THE NEED FOR  
CONGRESSIONAL OVERSIGHT. HOWEVER, I BELIEVE WE NEED  
SECRET

SECRET

PAGE 03 STATE 026995 TOSEC 020039

TO DEVISE PROCEDURES MORE COMPATIBLE WITH THE  
SEPARATION OF POWERS MANDATED BY THE CONSTITUTION SO  
THAT THE CONDUCT OF OUR FOREIGN RELATIONS AND THE  
IMPLEMENTATION OF THE LAW WILL NOT BE STIFLED BY THE  
UNCERTAINTY AND DELAY OF THE LEGISLATIVE VETO PROCESS.

THE ANNUAL CEILING ON ARMS SALES SEEMS TO REPRESENT  
THE VERY OPPOSITE APPROACH TO THAT ADOPTED IN THE

PROVISIONS CALLING FOR LEGISLATIVE VETOES. THIS ARBITRARY CEILING WOULD REQUIRE THE EXECUTIVE BRANCH TO MAKE DECISIONS EACH YEAR AS TO HOW A LIMITED VOLUME OF SALES IS TO BE ALOCATED AMONG POTENTIAL BUYERS AND AMONG TED STATES FIRMS COMPETING WITH EACH OTHER AND WITH FOREIGN FIRMS FOR EXPORT SALES. SHORT OF AN EMERGENCY, WE COULD NOT SUBSEQUENTLY EXPAND SALES FOR ANY COUNTRY WITHOUT CANCELING GOVERNMENT CONTRACTS WITH OTHER COUNTRIES. COMMERCIAL CONTRACTS, ONCE APPROVED AND

ENTERED INTO, COULD NOT BE DISAPPROVED. THE RIGIDITY COMPELLED BY THIS AMENDMENT WOULD SURELY CAUSE US TO LOSE OPPORTUNITIES AND TO ALIENATE FRIENDS, WITH RESULTANT IMPAIRMENT TO OUR ABILITY TO CONDUCT THE FOREIGN RELATIONS OF THE UNITED STATES IN A MANNER WHICH SERVES OUR NATIONAL INTERESTS.

I UNDERSTAND THAT YOU AND THE COMMITTEE ARE ALSO CONSIDERING ACTIONS THAT MIGHT BE APPROPRIATE IN THE CASE OF ASSISTANCE TO GREECE AND TURKEY, PARTICULARLY IN LIGHT OF CONCLUSIONS REACHED BY YOU AND THOSE OF YOUR COLLEAGUES WHO RECENTLY VISITED THE AREA. AS YOU KNOW WE EXPECT THAT INTER-COMMUNAL TALKS ON CYPRUS WILL BE RESUMED ON OR ABOUT FEBRUARY 17 IN VIENNA, UNDER SECRETARY GENERAL WALDHEIM'S AUSPICES. MOREOVER, TURKISH FOREIGN MINISTER CAGLAYANGIL WILL BE VISITING WASHINGTON FEBRUARY 11-13, AND THIS WILL GIVE US A TIMELY OPPORTUNITY FOR FRANK AND I HOPE PRODUCTIVE TALKS ON BOTH THE CYPRUS ISSUE AND OUR BASE NEGOTIATIONS. I WOULD HOPE WE WILL HAVE THE COMMITTEE'S UNDERSTANDING THAT IN TERMS OF THE FLEXIBILITY WE WILL NEED WITH THE TURKS ON BOTH THESE KEY ISSUES, IT IS IMPORTANT THAT NO NEW RESTRICTIONS, FOR EXAMPLE WITH RESPECT TO FMS CREDITS,

SECRET

SECRET

PAGE 04 STATE 026995 TOSEC 020039

BE PLACED ON OUR ASSISTANCE PROGRAM IN TURKEY.

I ALSO WANT TO SHARE MY VIEWS ON A PENDING AMENDMENT TO THE SECURITY ASSISTANCE LEGISLATION DEALING WITH DISCRIMINATION AGAINST U.S. NATIONALS. THERE CAN BE NO QUESTION THAT THE U.S. GOVERNMENT SHOULD NOT PARTICIPATE IN, SUPPORT OR CONDONE DISCRIMINATORY ACTIONS OF OTHER GOVERNMENTS BASED ON RACE, RELIGION, NATIONAL ORIGIN, OR SEX. THIS IS THE CLEARLY DECLARED POLICY OF THE ADMINISTRATION. THE MEASURES ANNOUNCED BY THE PRESIDENT LAST NOVEMBER 20, AND ACTIONS BEING TAKEN BY THE VARIOUS AGENCIES IN COMPLIANCE THEREWITH, PROVIDE THE BEST MEANS TO ENSURE THAT NO EMPLOYEE OF A U.S. GOVERNMENT AGENCY OR CONTRACTOR IS SUBJECTED TO SUCH DISCRIMINATION BY A FOREIGN GOVERNMENT.

I DO NOT BELIEVE, HOWEVER, THAT OUR POLICY CAN BE EFFECTIVELY ADVANCED THROUGH INFLEXIBLE LEGISLATIVE SANCTIONS, SUCH AS THE PROPOSED AUTOMATIC TERMINATION OF A DEFENSE ASSISTANCE TRANSACTION IN THE EVENT OF SUCH AN INCIDENT. AN ATTEMPT TO FORCE A CHANGE IN POLICY BY A FOREIGN GOVERNMENT, THROUGH SANCTIONS CONTAINED IN OUR LEGISLATION, WOULD BE VERY UNLIKELY TO SERVE THE OBJECTIVE WE SEEK: EQUAL TREATMENT OF U.S. CITIZENS. BECAUSE OF THE SENSITIVITIES INVOLVED IN

MATTERS OF NATIONAL SOVEREIGNTY, SUCH LEGISLATIVE EFFORTS COULD, INDEED, LEAD TO PUBLIC CONFRONTATION WHICH WOULD TEND TO NEGATE THE PROGRESS ACHIEVED THUS FAR IN OUR EFFORTS TO HAVE CERTAIN FOREIGN RESTRICTIVE POLICIES MODIFIED.

I AM ALSO DEEPLY CONCERNED THAT AUTOMATIC SANCTIONS COULD CAUSE SEVERE DAMAGE TO OUR ABILITY TO CONTINUE TO BE HELPFUL IN EFFORTS TO BRING ABOUT A STABLE AND LASTING PEACE IN THE MIDDLE EAST. SUCH DAMAGE COULD COME ABOUT THROUGH UNDERMINING THE BROAD AND GENERALLY COOPERATIVE RELATIONSHIP THAT EXISTS BETWEEN THIS COUNTRY AND MOST OTHER NATIONS OF THE AREA. THE MAINTENANCE OF SUCH A RELATIONSHIP IS CRUCIAL TO OUR ABILITY NOT ONLY TO PURSUE GLOBAL AND REGIONAL ISSUES

SECRET

SECRET

PAGE 05 STATE 026995 TOSEC 020039

OF MAJOR FOREIGN POLICY IMPORT BUT ALSO TO SEEK THE COOPERATION OF THOSE NATIONS ON SPECIFIC BILATERAL MATTERS OF IMPORTANCE TO US.

THEREFORE, WHILE I SHARE AND SUPPORT THE BASIC OBJECTIVE OF ASSURING THAT U.S. CITIZENS ARE NOT THE VICTIMS OF DISCRIMINATORY ACTIONS, IT IS MY PROFOUND CONVICTION THAT LEGISLATIVE SANCTIONS, SUCH AS I UNDERSTAND ARE TO BE SOUGHT, WOULD BE DAMAGING RATHER THAN HELPFUL.

AS YOU KNOW, DETAILED EXECUTIVE BRANCH POSITION PAPERS HAVE BEEN SUBMITTED TO THE COMMITTEE ON THE DRAFT BILL AND AMENDMENTS THERETO AND TECHNICAL PERSONNEL ARE ATTENDING THE COMMITTEE'S MEETINGS TO RESPOND TO QUESTIONS WHICH MAY ARISE IN THE COURSE OF YOUR DELIBERATIONS. THE VIEWS EXPRESSED HEREIN ARE IN ADDITION TO THE MATERIALS THAT HAVE BEEN SUBMITTED TO THE COMMITTEE BY THESE MEANS. I RESPECTFULLY URGE THEIR CONSIDERATION BY THE COMMITTEE.

SINCERELY,

HENRY A. KISSINGER.

END TEXT.

4. APPROVE. . . .DISAPPROVE. . . .

5. DRAFTED:NEA:SSOBER -

APPROVED: NEA:ALATHERTON, JR. CLEARED: H-S.GOLDBERG;

PM - T. STERN; L - J. MICHEL. INGERSOLL

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**Disposition Authority:** saccheem  
**Disposition Case Number:** n/a  
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**TAGS:** MASS, US, XF, SA, (MORGAN, THOMAS E)  
**To:** SECRETARY  
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